

## **FACTSHEET**

**TITLE: COMPREHENSIVE PLAN AMENDMENT NO. 94-52**, requested by the Director of Planning on behalf of M & S Construction and the Lincoln Chamber of Commerce, to amend the 1994 Lincoln-Lancaster County Comprehensive Plan, to change Figure 16, Lincoln's Land Use Plan, from Industrial to Commercial and from Industrial to Residential, on property generally located at N.W. 48<sup>th</sup> and W. Adams Street.

**STAFF RECOMMENDATION:** Approval.

**ASSOCIATED REQUESTS:** Annexation No. 00001 (00-212); Change of Zone No. 3248 (00-213); Special Permit No. 1833, Ashley Heights Community Unit Plan (00R-318); and Preliminary Plat No. 00005, Ashley Heights (00R-319).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 10/18/00  
Administrative Action: 10/18/00

**RECOMMENDATION: Denial** (6-3: Duvall, Carlson, Steward, Hunter, Newman and Taylor voting 'yes'; Krieser, Schwinn and Bayer voting 'no').

### **FINDINGS OF FACT:**

1. This Comprehensive Plan Amendment and the associated Annexation No. 00001, Change of Zone No. 3248, the Ashley Heights Community Unit Plan and the Ashley Heights Preliminary Plat were heard at the same time before the Planning Commission.
2. The Planning staff recommendation to approve this Comprehensive Plan Amendment is based upon the "Analysis" as set forth on p.2-4.
3. The applicant's testimony is found on p.5-7.
4. Testimony in opposition is found on p.7-8. The issue of the opposition is that it is not compatible to locate residential in close proximity to an existing industrial area.
5. A letter from the Arnold Heights Neighborhood Association supporting and encouraging residential and commercial development in the Arnold Heights Area, but with concerns surrounding the Ashley Heights proposal is found on p.14-15.
6. The Planning Commission discussion with staff is found on p.8-10.
7. The applicant's response to the opposition is found on p.10.
8. On October 18, 2000, the Planning Commission disagreed with the staff recommendation and voted 6-3 to recommend **denial**, finding that the property should remain industrial (Krieser, Schwinn and Bayer dissenting). See discussion on p.10-11.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** November 13, 2000

**REVIEWED BY:** \_\_\_\_\_

**DATE:** November 13, 2000

**REFERENCE NUMBER:** FS\CC\FSCPA9452

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**DATE: October 5, 2000**

**GENERAL INFORMATION:**

**CONTACT:** Jennifer L. Dam, AICP  
Planner  
Lincoln-Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508  
(402) 441-6362

1. This area was preliminary platted as a part of the Lincoln Chamber of Commerce Industrial Development Corporation Industrial Park in 1989. With the exception of the development of Sun Husker Foods on the corner of N.W. 48<sup>th</sup> and W. Adams Street, it has remained undeveloped.
2. The area of the proposed change is east of the Greater Arnold Heights Neighborhood, a residential neighborhood consisting of 1,432 dwelling units.
3. The southeast corner of N.W. 48<sup>th</sup> and W. Adams Street is developed with SunHusker Foods, an industrial land use.
4. The area immediately north of W. Adams Street is designated Industrial in the Comprehensive Plan, and is zoned I-1, Industrial. It is owned by the Airport Authority and is currently undeveloped. The Greater Arnold Heights Neighborhood Plan, adopted by the City Council on October 2<sup>nd</sup>, 2000, changed the eastern 300 feet of this parcel from Industrial to Parks and Open Space on Figure 16 "Lincoln's Land Use Plan."

5. The area east of the proposed change is designated as industrial in the Comprehensive Plan. It is currently used for farm land, and is zoned AG. Limited access, lack of utilities, floodplain restrictions, and the Ldn 65 and Ldn 70 airport noise zones make near term development of this property challenging.
6. The area south of the proposed change is shown for agricultural uses in the Comprehensive Plan, and it is zoned AG. Property owners to the south unsuccessfully requested a Comprehensive Plan amendment to show the area as urban residential during the 1998 Annual Review.
7. The Greater Arnold Heights Area Neighborhood Plan was adopted October 2, 2000 as a subarea plan of the Comprehensive Plan. It encourages development of the intersection of NW 48<sup>th</sup> and W. Adams as an "Urban Village" commercial center in the existing Air Park Industrial Park zoned I-1. The Plan recommends "light industrial", office and commercial uses be used as a transition from industrial to residential.
8. The north portion of the development is proposed to change from industrial to commercial. The Ashley Heights development proposes B-2, Planned Neighborhood Business District at the western end and H-4, General Commercial District at the northeast end. The B-2 district would provide neighborhood retail uses. The H-4 district is a general commercial district that permits more intensive commercial uses. Both uses are consistent with the Greater Arnold Heights Area Neighborhood Plan.
9. The Greater Arnold Heights Area Neighborhood Plan identifies a need for additional housing in the area. The plan projects a need for 274 housing units. The Ashley Heights Preliminary Plat and Community Unit Plan, associated with this request, propose 289 units, which will readily meet the projected demand.
10. The proposed Comprehensive Plan amendment would remove an area designated for industrial uses that is in close proximity to existing residential uses. While the area at the southeast corner of NW 48<sup>th</sup> and W Adams, and the area north of W. Adams would remain industrial, the closest corner of a proposed residential lot would be over 300 feet from the corner of the existing industrially zoned lot. There is 88', lot line to lot line, between the existing residential lots and the industrially zoned land north of W. Adams Street. There is about 300 feet between Sun Husker Foods and the existing residential lots to the west, however the residential lot to the southwest is 110 feet away. Thus, the proposed residential uses would be further away from existing industrial uses than existing residential uses.
11. The proposal is consistent with the goals of the Comprehensive Plan including:
  - Increase home ownership opportunities for households of different sizes and income levels. Encourage the development of new subdivisions in all areas to increase the supply of buildable lots.
  - Promote a pattern of growth and annexation that will support an adequate tax base for and an efficient use of present and future public investment in roads, sewer, water, electricity and other services.
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- Provide geographically convenient and accessible retail areas throughout the city and county so as to provide the widest possible array of goods and services.

**RECOMMENDATION:** Approval

Prepared by:

Jennifer L. Dam, AICP  
Planner

**COMPREHENSIVE PLAN AMENDMENT NO. 94-52;  
ANNEXATION NO. 00001;  
CHANGE OF ZONE NO. 3248;  
SPECIAL PERMIT NO. 1833,  
ASHLEY HEIGHTS COMMUNITY UNIT PLAN;  
AND  
PRELIMINARY PLAT NO. 00005,  
ASHLEY HEIGHTS**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Approval of the Comprehensive Plan Amendment, Annexation and Change of Zone; and conditional approval of the community unit plan and preliminary plat.

Jennifer Dam of Planning staff submitted an email from the Arnold Heights Neighborhood Association in support with some concerns as detailed in the communication.

**Proponents**

**1. Mark Hunzeker** appeared on behalf of the developer, **M & S Construction**. This is a project that is finally putting to use some land that has been owned by the Lincoln Chamber Industrial Corporation for quite some time and to change the zoning of the property from I-2 to H-4, B-2 and R-3, and to develop a residential subdivision on a substantial portion. This is an area that is in need of residential lots and commercial services.

This developer has been through several incarnations of this project. The initial proposal converted all of the area, except that area shown at B-2, into residential. They then moved toward a slightly modified version moving the residential further south to line up with the existing south line of Sunhusker Foods. Then they came to the current configuration which shows that this developer is doing what it can to provide a buffer for the new residential from the industrial area.

This development provides a 120' wide drainage corridor with a minipark. There is a 60' setback from the property line of the property being zoned to H-4 with landscaping before any commercial development can occur. There are also restrictions agreed upon which limit the uses in the south 200' of the H-4 area to uses which are relatively low traffic and low impact type uses in order to facilitate the transition from residential to the commercial.

This applicant has not submitted a use permit for the B-2 district because the area isn't quite ready yet for a grocery store and neighborhood type shopping center; however, upon completion of the residential development, it is likely that there will be sufficient rooftops in the area to justify construction of the grocery store. Hunzeker is hopeful that the applicant can be back here within a reasonably short period of time with a use permit to show a layout for a neighborhood shopping center.

Hunzeker stated that there was a traffic study done which indicates that when the B-2 area is developed, they will need to be making some improvements for access. The agreement on these improvements has been deferred until we know the configuration of the shopping center and total square footage.

Hunzeker then addressed the conditions of approval. With respect to the conditions for the annexation agreement, the staff is requiring that it be revised to indicate that the City will subsidize only the 15" sanitary sewer line upstream from manhole 32. This issue is still under negotiation with the Public Works Department and Hunzeker requested that the phrase be added, "if required by Public Works". This will be resolved prior to going to the City Council.

With respect to the community unit plan, Condition #1.2.8 requires a walkway to the park that is a minimum of 6' in width, designated to meet accessibility guidelines and within a 10' easement. Hunzeker has discussed this with the Parks Department and they have agreed that the 10' easement would be a 6' easement, i.e. a 6' path and a 6' easement. With respect to Condition #1.2.9 to revise the plan to show 10' pedestrian way easements, Hunzeker advised that the staff has agreed to reduce this to 5' pedestrian way easements. These same revisions appear in the preliminary plat as Condition #1.1.8 and #1.1.9.

With regard to Condition #1.2.4 of the community unit plan relating to sidewalks on the south side of W. Adams Street (Condition #1.1.4 of the plat), Hunzeker pointed out that West Adams currently terminates at the east end of the Sunhusker Foods property. They have had numerous meetings about extension of West Adams Street. The area to the east is in the floodplain and shown as industrial and it is unlikely that that street will be needed. The developer has agreed with the City that they will pave that portion of W. Adams to a certain point, but the likelihood of development in this area occurring any time in our foreseeable future is very light. Hunzeker requested a waiver of the sidewalks on the south side of Adams Street. This is a justifiable request and would require deletion of the language in Condition #1.2.4 of the special permit and #1.1.4 of the plat, "and the south side of West Adams Street adjacent to this plat".

Hunzeker stated that this developer has assumed the obligation of the Airport Authority to step up to a share of the paving in West Adams Street. This developer is putting in a lot of improvement there that probably is going to get almost zero use. Hunzeker indicated that the staff is not necessarily in complete agreement on this issue.

Steward asked whether the applicant has had discussions with staff with regard to the landscape plan. Hunzeker answered in the affirmative. There is a requirement to meet the landscape screening requirement. The applicant has agreed to meet the city design standards; however, this may not have yet been submitted.

Duvall asked whether the applicant has worked with the neighbors. Hunzeker stated that they met with the Arnold Heights group last week and they still have some questions. However, his impression is that they are generally supportive of the project but they do have a few questions. The applicant has offered to meet with them again between now and the City Council to get those questions and concerns answered.

The applicant met with its industrial neighbor last week and Hunzeker is not sure there is anything that can be done that will alleviate the concerns expressed. Hunzeker believes this developer has done quite a bit to buffer this development from the industrial user. Much of that came at the behest of the staff and the Health Department and he is confident that in terms of selling lots and having people living in this vicinity, these residential lots are at least as far away from the industrial user as the ones already there on the west side of N.W. 48<sup>th</sup> Street.

Hunzeker advised that the residential area will be moderate income homes. It will not be subsidized housing, but they will not be the top end, with price range of \$110,000 to \$150,000. The townhouse product will be three-bedroom, two-story, ranging from \$105,000 to \$110,000 per duplex unit. The residential range would be \$115,000 to \$150,000. They would be considered starter homes, 1120 - 1200 sq. ft. ranch type.

### Opposition

**1. Charlie Humble** testified in opposition on behalf of **R.E. Meyer Co.**, known as Sunhusker Foods, along with **Steve Sands, Vice President of R.E. Meyer Co.**, 4611 W. Adams. Sunhusker is located right at the corner of N.W. 48<sup>th</sup> and W. Adams, on 15 acres of I-2 zoning. It has been Sunhusker Foods for 10 years, now known as R.E. Meyer since April of this year.

**2. Steve Sands** also testified in opposition. He suggested that locating residential uses next to I-2 zoning makes no sense for the residential neighbors or for the R.E. Meyer business. R.E. Meyer Co. was formed in April of this year, purchasing Sunhusker Foods and Standard Meat Co. Sands was President and CEO of Standard Meat Co. The company then also folded in the assets of Meyer Natural Angus. This is actually a vibrant stroke for Lincoln because it was the type of merger that created jobs instantly and no one was laid off. They are in the process of folding the Standard Meat operation on Van Dorn into the R.E. Meyer facility on West. Adams. There are 3 million pounds of product coming in every month and 3 million pounds leaving every month. Lots of trucks. Every day R.E. Meyer generates 20,000 pounds of inedible product—bones, fat, blood, guts. R.E. Meyer receives the animal hanging on the hook and breaks it down into its constituent muscle parts.

Sands believes that R.E. Meyer/Sunhusker has been a good neighbor to Arnold Heights because they sought to mitigate the impact on Arnold Heights by having their docks and lighting on the east and south, etc. All of those mitigations that benefitted Arnold Heights would negatively impact Ashley Heights. For example, there are a lot of flies and smells generated at this site. The prevailing wind pattern goes directly into Ashley Heights away from Arnold Heights. R.E. Meyer also produces a cooked product, half of which goes to Japan and overseas. Cooking creates smells and those smells and odors are vented. R.E. Meyer intends to increase its cooking capacities.

Sands also believes that there are traffic pattern problems. Where 45<sup>th</sup> is platted goes right by the R.E. Meyer dock. The recreational areas are north of 45<sup>th</sup> so there will be lots of kids riding bikes right past the docks. R.E. Meyer run two shifts, with a third shift that does cleanup. They are always operating. R.E. Meyer has over 200 employees with an annual payroll in excess of 5 million dollars. Most of what R.E. Meyer sells is outside the confines of Nebraska.

Sands advised the Commission that when Mr. Meyer invested millions of dollars to bring the three companies together, he didn't know about this proposed change in zoning. Meyer was assured that when the area was platted as Lincoln Industrial Development Corp. 10 years ago, they did not expect residential uses, and Meyer did not expect residential when he bought it 6 months ago. This caught R.E. Meyer by surprise and they see many, many problems. "We think its going to paint us into a box where we're a bad neighbor." The meat industry fights issues every day. Meat industry is a hard industry to site. R.E. Meyer has a site, has been there and has been a good neighbor. R.E. Meyer does not want to be sent up to incur the wrath of their neighbors.

R.E. Meyer Co. is adamantly opposed to the change of zone. It would jeopardize their future growth and legitimately jeopardize the current business as they operate it today. They have dangerous equipment. This residential development will bring lots of kids and pets to this area. Humble further testified that this is a bad mixture of land uses. From a land use perspective, taking the I-2 area and to say that, "this is the solution to the problem of why it didn't go", is a very bad solution. Think of it in terms of R.E. Meyer being the applicant. Let's say the 300 houses are there and in we come and ask for I-2 on the corner so that we can put in our meat plant. What do you think the staff recommendation would be that kind of request? Humble predicts that It would be immediate denial. R.E. Meyer is there first. Locating residences here will cause problems. Yes, the Comprehensive Plan for Greater Arnold Heights called for additional housing, but there are residential opportunities to the west of N.W. 48<sup>th</sup> Street. To put residential in an industrial park and an industrial area is very bad planning and this business will bear the brunt of it.

Steward inquired whether R.E. Meyer handles any toxic materials and whether all of the liquid waste is going into the city sanitary system. The General Manager of R.E. Meyer stated that they do not have any toxic chemicals on the property. They do discharge into the sanitary sewer, going into a grease trap first.

Bayer confirmed that part of the issue is R.E. Meyer feels like it will be forced out. Humble's response was that R.E. Meyer wants to add employees, they want to add shifts, and they want to add building. They cannot be forced to close down and leave.

Bayer wondered whether there would be room on the 15 acres to add building. Humbles answered in the affirmative. There is no hidden agenda--we just know that meat companies and residential do not mix well.

Schwinn recalled the Standard Meat Co. property at the Van Dorn Bypass, noting that at that time the Health Dept. had tremendous reservations about residential being located that close to an industrial site, and yet we have a letter from the Health Department on this application that does not show a lot of concern about residential uses being located next to this meat packing plant. Jennifer Dam of Planning staff explained that the existing residential uses are closer to R.E. Meyer/Sunhusker than the proposed residential. The closest house in the existing residential area is 110' away. Planning staff viewed this proposal as reducing the large area of potential industrial uses and making it better for the existing areas to the west. Since Sunhusker Foods (R.E. Meyer) is already there, the purchasers of the homes would know it was there at the time of purchase of the lot.



Bayer wondered whether an expansion of Sunhusker Foods would come through the permit process with opportunities for public hearing that could potentially prevent them from expanding. Dam advised that it would go through the building permit process.

Carlson asked for a response to the concerns raised in the communication from the Arnold Heights Neighborhood. With regard to the traffic study, Dam advised that the staff has agreed to hold off on any required improvements until they actually have a user for the B-2 area. The residential and commercial traffic generated is probably less than what could be developed by right under the existing I-2 district. In terms of access, there would be two points--one going north on N.W. 45<sup>th</sup> and out W. Adams, and out W. Huntington Street. If the area to the south ever develops, that could provide additional access in the future. There are provisions for stubs to the south. In terms of school transportation, this area is within the area that would have busing to Arnold Heights Elementary School. The children who live in Lincoln Heights are currently bused. School capacity has not been discussed.

Dam also advised that the minipark location was determined between Parks and the developer and Parks believes it to be a suitable location for the minipark.

Stepping back in the overall matter of the Comprehensive Plan and good planning principles, Steward thought that the point raised about who was there first is an excellent one. The industrial proposing to be in such close proximity to housing would be a serious question if that were the case. What is the staff rationale, on a broad principle basis, for allowing these proximities? Dam clarified that as approved today, this entire area is zoned I-2, which puts a greater area of residential uses closer to industrial. The proposed Comprehensive Plan amendment reduces the amount of residential being adjacent to industrial. If Sunhusker Foods came in today and requested industrial on that corner and the residential was already in place, she agreed that the staff would not likely recommend approval. However, this proposal makes it better and moves the proposed residential uses further way from the industrial.

Taylor's concern is the distance between the residential and the industrial. Dam reiterated that the closest house in this proposal would be over 300' away. The closest existing house to the industrial is 110'. On an average, the existing houses are about 300' away.

Taylor asked whether there is any concern about the odors, etc. Dam thought that the prevailing winds in the summer came out of the southwest and would blow the odors a different direction and in toward the airport.

Bayer stated that he's a little nervous that it is going to be difficult to sell a house because it is going to smell and there are going to be trucks all the time. Is there any precedence to require a condition that says prospective buyers be notified of what's there? Dam explained that currently, the city requires owners to be notified of soil conditions and she thought a condition could be added to require that owners be notified of the Sunhusker Foods use.

#### Response by the Applicant

Hunzeker is not sure the distance is a critical factor but it might be easier to keep this in perspective by looking at the aerial photo which shows the subject property and where the

residential area is located with respect to the industrial. The applicant believes that the area to the east provides some transition. This applicant had intended to leave it zoned industrial but, at the request of the Planning staff and the Health Department, they are requesting to change the zoning on this 40+ acres to Highway Commercial. Hunzeker submitted that the distance from the closest residential lot to Sunhusker is closer to 500' than any other numbers that have been discussed. This development is pretty well buffered relative to the existing residential and it may be the case that there are concerns on the part of R.E. Meyer that they may in the future begin to emit odors, but it is Hunzeker's understanding that over the last 10 years they have had four complaints. The prevailing wind in the summer is out of the southeast and southwest. When windows are likely to be open and humidity likely to be high, the winds are coming out of the south. None of that seemed to bother Sunhusker Foods when they located their plant at its existing location when all the residential that exists to the northwest was already in place. There is a considerable distance from their property line to their existing plant. Hunzeker pointed out that this applicant is very comfortable in marketing residential units in this location. If there needs to be some disclosure provision to prospective buyers, he would agree, but he thinks it is fairly obvious and something that will be hard to miss for anybody that goes out there to look at a lot.

Hunzeker submitted that this is very positive for the Arnold Heights neighborhood; the housing is needed and the shopping is needed. Without the rooftops the shopping is not likely to happen.

Hunter was interested in knowing the uses that might be located on the B-2 zoned property. Hunzeker indicated that they are hoping for a grocer to anchor a neighborhood shopping center, including the usual kinds of neighborhood shopping stores, i.e. drug store, ancillary retail to go with the grocer, etc. The grocers are telling this applicant that there aren't enough rooftops for a grocery store without this development.

Public hearing was closed.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-52**  
**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to deny, seconded by Steward.

Duvall commented that this property is industrial and it has always been that way. They still share the same road going out 45<sup>th</sup> Street so there is going to be a lot of traffic going by. He believes the property should remain industrial.

Hunter observed that this is really an almost reversal of the type of thing the Planning Commission would normally see. With industrial on the north side of West Adams and the uses of that property that are on the south side of West Adams, she feels like the R.E. Meyer Co. probably instituted their business there with the future expectation that there would be other industrial uses that would surround them and not that they would end up being surrounded by residential uses. She does not think this is the appropriate area for more residential development.

Steward believes it's a philosophical point of view. He does not like the idea of changing the Comprehensive Plan in this particular way. Secondly, he thinks we are being asked to look at the potential of middle income housing when, in effect, with the other surrounding circumstances of an

industrial facility, it creates the high potential for low income, ghettoization of less than desirable properties, and that will cause them to be downgraded from an economic point of view just in order to make the property pay. He does not think it is a good idea.

Taylor agreed with Steward and Hunter. If you have been in an area of packing house odors, you know the residential is going to be degraded.

Bayer was torn. The argument that the industrial has always been there is a strong one. The counter is that "the only thing that has gone there is this", implies that there is not a lot of desire for industrial in that area. With regard to affordable housing, he believes that this is almost infill because there is already housing to the west and northwest. He thinks he likes the idea. What got him is when the applicant said Sunhusker wasn't concerned about the smell when they put themselves there ten years ago. He can see both sides and we just have to weigh the priorities. Bayer is excited about affordable housing.

Schwinn was also torn with mixed emotions. He believes that the B-2 zoning is very, very appropriate and it will be a great location for the services needed in that neighborhood. He has concerns that we approved a huge subdivision to the west that never got built. He is fearful that the market isn't there. As far as the arguments from Sunhusker, they are very compelling also, and he agrees that we probably would not have allowed them in this area if they came in later. However, all the land directly north of Sunhusker is zoned I-1, which does not mean there is going to be an end to industrial uses out there. He believes this is a good housing opportunity; he believes that we call for mixed uses and this is about as mixed as you are ever going to have. It is a "buyer beware" situation and that is not the Planning Commission decision.

Motion to deny carried 6-3: Duvall, Carlson, Steward, Hunter, Newman and Taylor voting 'yes'; Krieser, Schwinn and Bayer voting 'no'.

**ANNEXATION NO. 00001**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Steward moved to deny, seconded by Duvall and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

**CHANGE OF ZONE NO. 3248**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to deny, seconded by Steward and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

**SPECIAL PERMIT NO. 1833**

**ASHLEY HEIGHTS COMMUNITY UNIT PLAN**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Steward moved to deny, seconded by Duvall and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

**PRELIMINARY PLAT NO. 00005**

**ASHLEY HEIGHTS**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to deny, seconded by Steward and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.